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**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

MGP APEX 582 MULTIFAMILY, LLC, a  
Nevada limited liability company; MGP APEX  
582 DEVELOPMENT, LLC, a Nevada limited  
liability company; MGP APEX 582  
GUARANTY, LLC, a Nevada limited liability  
company;

Plaintiffs,

vs.

TREZ CAPITAL WINSTON LP, a Delaware  
Limited Partnership; TREZ CAPITAL  
FUNDING II, LLC, a Delaware limited  
liability company,

Defendants and Real  
Parties in Interest,

and

BH&G HOLDINGS, LLC, a Nevada limited  
liability company

Nominal Defendant.

CASE NO.: 2:23-cv-00009-RFB-DJA

**STIPULATION AND ORDER TO  
REMAND**

1 Plaintiffs MGP Apex 582 Multifamily, LLC, MGP Apex 582 Development, LLC, and  
2 MGP Apex 582 Guaranty, LLC (collectively, the “Plaintiffs”) and Defendants Trez Capital  
3 Winston LP and Trez Capital Funding II, LLC (collectively, the “Defendants”) hereby stipulate  
4 and agree, and jointly request that the Court remand this Removed Action back to the Eighth  
5 Judicial District Court for Clark County, Nevada due to lack of diversity jurisdiction, based on the  
6 following:

7  
8 WHEREAS, on December 27, 2022, Plaintiffs commenced an action in Nevada’s Eighth  
9 Judicial District Court, Case No. A-22-863107-C, entitled *MGP Apex 582 Multifamily, LLC v.*  
10 *Trez Capital Winston LP* (the “State Court Action”).

11 WHEREAS, on January 3, 2023, Defendants filed a Notice of Removal with this Court  
12 [ECF No. 1] based on contended diversity jurisdiction (the “Removed Action”). The Removed  
13 Action was assigned to Judge Richard F. Boulware and Magistrate Judge Daniel J. Albregts as  
14 Case No. 2:23-cv-00009-RFB-DJA.

15  
16 WHEREAS, no other defendants named in the State Court Action filed an appearance in  
17 either the State Court Action or the Removed Action and none have joined in the Notice of  
18 Removal.

19 WHEREAS, Defendants and Plaintiff MGP Apex Multifamily, LLC each have members  
20 and/or partners domiciled in Delaware, thereby precluding diversity jurisdiction. *See Johnson v.*  
21 *Columbia Properties Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006) (“[L]ike a partnership, an  
22 LLC is a citizen of every state of which its owners/members are citizens.”). The Delaware  
23 membership within Plaintiff MGP Apex Multifamily, LLC was unbeknownst to defense counsel at  
24 the time of filing the Notice of Removal.

25  
26 WHEREFORE, Plaintiffs and Defendants stipulate and agree that the Removed Action  
27 does not meet the complete diversity requirement for diversity jurisdiction, and on this basis,  
28

1 jointly request that the Court order the Removed Action to be immediately remanded back to the  
2 Eighth Judicial District Court in and for Clark County, Nevada. *See id. See also*, 28 U.S.C. §  
3 1332. Due to a scheduled January 10, 2023 foreclosure sale, and a TRO hearing that was pending  
4 at the time of removal, the Parties request expedited review of this stipulation.  
5

6 **IT IS SO STIPULATED.**

7  
8 Dated: January 5, 2023

Dated: January 5, 2023

9 **HOLLAND & HART**

**SNELL & WILMER LLP**

10  
11 By: /s/ Joseph G. Went (with permission)

By: /s/ Richard C. Gordon

12 Joseph G. Went, Esq.  
13 Nevada Bar No. 9220  
14 Sydney R. Gambee, Esq.  
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18 *Attorneys for Defendants*

*Attorneys for Plaintiffs*

19 **ORDER**

20 **IT IS SO ORDERED.**

21  
22  
23  
24 UNITED STATES DISTRICT JUDGE

25  
26 DATED: \_\_\_\_\_  
27  
28

## Shypkoski, Michelle

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**From:** Joseph Went <JGWent@hollandhart.com>  
**Sent:** Wednesday, January 4, 2023 5:34 PM  
**To:** Gordon, Richard  
**Cc:** Austin, Bradley; Foley, Erik; Shypkoski, Michelle; Sydney R. Gambee  
**Subject:** MGP Apex 582 Multifamily, LLC, et al., v. Trez Capital Winston LP, et al. (Remand for Lack of Diversity)  
**Attachments:** Stipulation and Order to Remand 4885-7237-9975\_2.docx

[EXTERNAL] [jgwent@hollandhart.com](mailto:jgwent@hollandhart.com)

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Rick:

We have reviewed the email and documents you provided this afternoon regarding the membership of Plaintiff MGP Apex Multifamily, LLC. Based on those items, the citizenship of MGP Apex Multifamily, LLC and the citizenship of the defendants, we understand that diversity jurisdiction is precluded. You may affix my electronic signature to the stipulation and order to remand.

Joe



Holland  
& Hart

**Joseph Went**

Partner

**HOLLAND & HART LLP**

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